

March 5 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0312

STATE OF MONTANA

Plaintiff and Appellee,

v.

CODY WILLIAM MARBLE,

Defendant and Appellant.

FILED

MAR 05 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

FOURTH MOTION FOR EXTENSION OF TIME

COMES NOW, Colin M. Stephens, counsel of record for Defendant and Appellant, and respectfully requests a Fourth Extension of Time until April 15, 2010 in which to prepare, file and serve the Appellant's brief in the above entitled matter. I, Colin M. Stephens, request an extension of time because I have not been able to obtain a transcript of a hearing that is critical to the Defendant and Appellant's appeal. *See* attached affidavit. Opposing counsel has been contacted and concerning this motion and does not object.

Dated this 4th day of March, 2010.

COLIN M. STEPHENS
Smith & Stephens, P.C.
315 West Pine
Missoula, MT 59802

By: 
COLIN M. STEPHENS

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the Motion for Extension of Time to be mailed to:

FRED VAN VALKENBURG
Missoula County Attorney
200 West Broadway
Missoula, MT 59802

STEVE R. BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
Helena, Mt 59620-1401

CODY MARBLE #2044197
Montana State Prison
700 Conley Lake Rd.
Deer Lodge MT 59722

DATED: March 4, 2010

Kell T. [Signature]

FILED

MAR 05 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

STATE OF MONTANA)
 :SS.
COUNTY OF MISSOULA)

I, Colin M. Stephens, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as a contract attorney.

2. In my capacity as a contract attorney, I have been assigned to handle the above-entitled matter.

3. The Appellant's opening brief was first due October 13, 2009. The brief is presently due on March 15, 2010.

4. As shown below, I have exercised diligence and have a substantial need for the extension.

5. The key issue in this appeal depends upon obtaining a transcript of a hearing conducted March 17, 2009 during which the Defendant and Appellant alleges that he was prejudiced by ineffective assistance of counsel.

6. I first ordered the transcript February 1, 2010 and, as of yet, still have not received it. See Exhibit 1. It is unlikely that I will receive the transcript with enough time to meet the current due date of March 15, 2010. Therefore, out

of an abundance of caution, I move for an extension of time.

7. I will work diligently to complete the matter in the time requested.

8. Opposing counsel has been contacted concerning this motion and does not object.

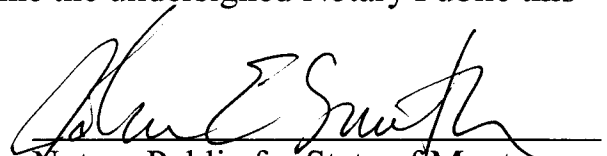
9. Further your affiant sayeth naught.

DATED: 3/4/10



COLIN M. STEPHENS

SUBSCRIBED AND SWORN TO before me the undersigned Notary Public this 4th day of March 2010.



Notary Public for State of Montana

Residing in Missoula, MT

My Commission Expires: 5-15-10

• (SEAL)

Colin M. Stephens

Subject: FW: Cody Marble

From: Carebish@aol.com [mailto:Carebish@aol.com]

Sent: Tuesday, March 02, 2010 1:27 PM

To: colin@smithstephens.com

Subject: Re: Cody Marble

Sorry, Colin,
I have been swamped. I will get you an estimate/transcript/asap.

Thanks!

Catherine A. Rebish
Official Court Reporter
4th Judicial District
200 West Broadway
Missoula, Montana 59802
(406) 258-4738